

39.1 Opening Statements and Closing Arguments.

- (a) **Opening Statements.** After the jury is selected and sworn, the party on whom the burden of proof rests may, without arguing, make an opening statement, after which each adverse party may do the same.
- (b) **Closing Arguments.** The parties may each make a final argument. The judge, after conferring with the attorneys, allots time for each argument. The plaintiff's attorney may take no more than one-third of the plaintiff's allotted time for rebuttal. Unless ordered otherwise, during rebuttal the plaintiff's attorney may discuss only subjects previously discussed during either party's closing argument. If the defendant waives closing argument, the plaintiff may not offer rebuttal. However, if the plaintiff waives closing argument, the defendant may make a closing argument. If the party having the burden of proof is not the plaintiff, that party is treated as the plaintiff for purposes of this rule.